

ORDINANCE No.

114751

COUNCIL BILL No.

107583

AN ORDINANCE relating to the Department of Administrative Services; authorizing the execution of a Mutual and Offsetting Benefit (MOB) Lease Agreement with the University Child Development School.

Law Department

The City of Seattle

REPLY

Honorable President:

Your Committee on

PARKS &

to which was referred the within Council Bill No. report that we have considered the same and res

COMPTROLLER FILE No.

Introduced: SEP 2 5 1989	By: <u>Sibonga</u>
Referred: SEP 2 5 1989	To: <u>Parks + Public Grounds</u>
Referred:	To:
Referred:	To:
Reported: OCT 9 1989	Second Reading: OCT 9 1989
Third Reading: OCT 9 1989	Signed: OCT 9 1989
Presented to Mayor: OCT 10 1989	Approved: OCT 16 1989
Returned to City Clerk: OCT 16 1989	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

PASS 3-

OK

Law Department

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

Honorable President:

Your Committee on

PARKS & Public Grounds

to which was referred the within Council Bill No.

107583

report that we have considered the same and respectfully recommend that the same:

PASS 3-0 10/4/89

Committee Chair

CB# 107583

ORDINANCE 114751

AN ORDINANCE relating to the Department of Administrative Services;
authorizing the execution of a Mutual and Offsetting Benefit (MOB)
Lease Agreement with the University Child Development School.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Mayor is authorized to execute and the City Comptroller to attest for and on behalf of the City of Seattle, a Mutual and Offsetting Benefit (MOB) Lease Agreement, substantially in the form of Exhibit "A", attached hereto and identified as "Mutual and Offsetting Benefit Lease Agreement", with the University Child Development School, for the lease of the building at 3500 Interlake Avenue North, Seattle, Washington, to provide preschool and primary educational programs.

Section 2. The consideration for the lease will be based upon fair market rental value as determined by a current real property appraisal. In accordance with the MOB Rules, the University Child Development School will pay a portion of the fair market rent in the form of cash, and will provide the remainder in the form of a predetermined amount of services to the public.

Section 3. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

(To be used for all Ordinances except Emergency.)

Section 4... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 9th day of October, 1989,
and signed by me in open session in authentication of its passage this 9th day of
October, 1989.

Approved by me this 16th day of October, 1989,
Charles P. Ryan Mayor.

Filed by me this 16th day of October, 1989.

Norward J. Brooks
Attest: _____
City Comptroller and City Clerk.

(SEAL)

Published _____
By Theresa Dunbar
Deputy Clerk.

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MUTUAL AND OFFSETTING BENEFITLEASE AGREEMENTPART A - SIGNATURE FORMPARTIES

THIS LEASE AGREEMENT is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington, as Lessor, (hereinafter referred to as the "City") and UNIVERSITY CHILD DEVELOPMENT SCHOOL, a nonprofit corporation organized under the laws of Washington and authorized to do business in the State of Washington, as Lessee (hereinafter referred to as "Lessee").

PREMISES

The City hereby leases to the Lessee and the Lessee hereby leases from the City all of the structure located on the following property:

Lots 12 through 16 inclusive, plus the west 12 feet of Lot 11, and the vacated alley adjoining, all in Block 6, Edgewater Addition to The City of Seattle, per the plat thereof recorded in Volume 3, Page 141, Records of King County;

the street address for which is 3500 Interlake Avenue North (hereinafter referred to as the "Premises").

USE/PURPOSE

The Premises shall be used and occupied only for the following purpose(s): School activities.

TERM

The term of this lease begins July 1, 1987, and expires June 30, 1992, unless terminated earlier pursuant to the terms and conditions hereof.

RENT

In consideration for this Lease, the Lessee shall pay to the City or provide for the City's benefit, for the use and occupancy of the Premises, the following monthly rent: One Thousand Two Hundred Seventy-One and No/100 Dollars (\$1,271.00), of which a portion, as further described in Part B, Subsection 8.A, hereof, shall be in the form of legal tender of the United States of America or negotiable instruments payable in the same and acceptable to the Director of Administrative Services. Any non-monetary portion of the rent shall be in the form of in-kind services that shall be agreed upon prior to the providing of the same. The services to be provided as a portion of any month's rent shall be described in the annual supplement(s) comprising Part C, hereof.

The "fair market improvements value" of the property of which the Premises form a part is Thirty Thousand Two Hundred and No/100 Dollars (\$30,200.00), which figure shall be used in the computation of the minimum monetary portion of the rent payable during the first year of the term hereof, and following the annual adjustment provided for in Part B, Subsection 8.C, hereof, for the succeeding years of the term of this Lease.

Under no circumstances shall in-kind services in excess of the value the Lessee becomes obligated to provide in any particular year be usable as an offset to the minimum monetary rental due and payable for any year of the Lease term, or as an offset to any services to be provided by the Lessee in any succeeding year of the Lease term.

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INSURANCE

The Lessee shall secure and maintain insurance to protect the City from liability as more fully described in Part B, Subsection 4 of this Lease, which insurance shall provide the following minimum coverage:

\$1,000,000.00 Bodily injury, per person.
\$1,000,000.00 Bodily injury, per occurrence.
\$1,000,000.00 Property damage, per occurrence.

UTILITIES

As provided in Part B. Section 3. Utilities, the Lessee, at its sole expense, shall provide all utilities and other services.

The City shall not be responsible for any costs incurred in modifying the systems therefor that are occasioned by the Lessee's requirements.

AGREEMENT CONTENTS

This lease consists of this Part A - Signature Form, plus Part B - General Terms and Conditions, and the annual supplements hereto that comprise Part C - Description of M.O.B. Lessee's Services in Lieu of Cash Rental, all of which, by this reference, are incorporated herein. This Lease embodies the entire agreement of the parties hereto. There are no other understandings or agreements, written or oral, between the parties relating to the subject matter hereof.

EFFECTUATION OF AGREEMENT

In order to be effective, this Lease must be (1) signed by an authorized representative of the Lessee and returned to the City at the address set forth below, accompanied by any required evidence of insurance, and (2) signed by the Mayor pursuant to ordinance authority.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures below:

THE CITY OF SEATTLE
LESSOR

UNIVERSITY CHILD DEVELOPMENT SCHOOL
LESSEE

By _____
Mayor

By _____
(Name)

ATTEST:

(Title)

By _____
City Comptroller

By _____
(Name)

(Title)

City's address for all
communications:

Lessee's address for all
communications:

Property Management Section
Department of Administrative Services
Fifth Floor
400 Yesler Building
Seattle, WA 98104
(until otherwise notified)

University Child Development School
3500 Interlake Avenue North
Seattle, Washington 98103
(until otherwise notified)

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that CHARLES ROYER and NORWARD J. BROOKS signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the MAYOR and CITY COMPTROLLER, respectively, of THE CITY OF SEATTLE to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public in and for the State of
Washington, residing at _____

My appointment expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, 19____, before me personally appeared _____ and _____ to me known to be _____ of the _____ corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand the day and year first above written.

Notary Public in and for the State of
Washington, residing at _____

My appointment expires _____

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MUTUAL AND OFFSETTING BENEFIT

LEASE AGREEMENT

PART B - GENERAL TERMS AND CONDITIONS

1. LIMITATION ON USE/PURPOSE

Notwithstanding any other provision herein, the Lessee shall not enter into any sublease of the Premises or any portion thereof or any assignment of any interest in this Agreement, whether long or short term in nature, or engage in any activity with respect to or on the Premises other than that expressly authorized herein, without obtaining the prior explicit written authorization therefor from the City.

2. POSSESSION

In the event of the inability of the City to deliver possession of the Premises, or any portion thereof, at the time of the commencement of the term of this Lease, neither the City nor any of the City's officers, employees, or agents shall be liable for any damage caused thereby, nor shall this Lease thereby become void or voidable, nor shall the term herein specified be in any way extended, but in such event, the Lessee shall not be liable for any rent until such time as the City can deliver possession.

3. UTILITIES

The Lessee, at the Lessee's sole expense, shall provide or shall otherwise pay for, when due, all costs for providing all utilities and other services on or to the Premises including but not limited to elevator service, electricity, gas, water, telephone, sewer, garbage, heating, janitorial, security, and grounds keeping, and shall also pay all charges for utility installation and modifications thereto occasioned by the Lessee's requirements. The City shall not be liable for any injury, loss or damage caused by or resulting from any interruption or failure of said services due to any causes whatsoever except the City's negligence. The Lessee shall not be entitled to an offset, reduction, or return of rental as a result of any interruption or failure of said services.

4. LIABILITY

A. Indemnity: The Lessee shall indemnify and hold the City harmless from any and all losses, claims, actions, damages and expenses arising out of or resulting from any occurrence in or on the Premises. In the event that any suit based upon such losses, claims, actions, damages, or expenses is brought against the City, the Lessee, upon notice of the commencement thereof, shall defend the same at its sole cost and expense; and if final judgment be adverse to the City, or the City and the Lessee jointly, the Lessee shall promptly satisfy the same. The liability described in this subsection shall not be diminished by the fact, if it be a fact, that any such death, injury, damage, loss, cost or expense may have been contributed to, or may be alleged to have been contributed to, in part, by an act or omission of the City, its officers, employees or agents; Provided, that nothing contained in this subsection shall be construed as requiring the Lessee to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole act or omission of the City, its employees, officers, or agents.

B. Insurance: The Lessee shall secure and maintain during the full term of this Agreement, at no expense to the City, insurance by one or more companies authorized to do business in the State of Washington, as follows:

(1) A policy of fire and extended coverage, vandalism, malicious mischief, and special extended coverage insurance providing coverage of not less than eighty percent (80%) of the full replacement value of the Premises, including improvements made thereto, and the contents, with no allowance for depreciation, under which policy the City shall be named as an additional insured, as follows:

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The City of Seattle is an additional insured for all coverages provided by this policy of insurance and shall be fully and completely protected by this policy for any claim, suit, damage or loss of any sort sustained by any person, organization, or corporation and arising out of a covered occurrence under this policy. The coverages provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise changed in any respect without providing written notice thereof to The City of Seattle, Department of Administrative Services, Property Management Section, 400 Yesler Building, Fifth Floor, Seattle, WA 98104, at least thirty (30) days prior to the effective date thereof."

All losses under the policy shall be adjusted jointly by the Lessee and the City. Any loss paid under such insurance shall be payable to the Lessee and the City and shall be held by the City in trust for application to the cost of rebuilding, repairing, replacing, or restoring the Premises; and the City shall be paid such portion of the insurance proceeds as is equal to the true value of the Premises including all improvements made thereto as of the expiration or termination date specified in Part A, hereof, whichever is earlier (excluding removable trade fixtures and personal property), assuming no damage or loss other than normal wear and tear had occurred.

(2) A primary policy of general comprehensive liability insurance, under which (a) the City shall be named as an additional insured in the following manner:

"The City of Seattle is an additional insured for all coverages provided by this policy of insurance and shall be fully and completely protected by this policy for any claim, suit, injury, death, damage or loss of any sort sustained by any person, organization or corporation in connection with activity upon or use or occupancy of the Premises, as well as any activity performed by the principal insured therein.

"The coverages provided by this policy to the City, or any other named insured, shall not be terminated, reduced or otherwise changed in any respect without providing written notice thereof to The City of Seattle, Department of Administrative Services, Property Management Section, 400 Yesler Building, Fifth Floor, Seattle, WA 98104, at least thirty (30) days prior to the effective date thereof."

(b) Liability limits shall be at least the amounts set forth in Part A of this Lease; Provided, that in the event the Director of Administrative Services deems such insurance to be inadequate to fully protect the Lessee and the City, the Lessee shall increase said liability limits to such amounts as the Director of Administrative Services shall deem reasonably adequate to provide said protection, which increase shall be completed within sixty (60) days after the date of notice that the Lessee's insurance is deemed to be inadequate.

(c) Coverage shall include, but not be limited to, the following types (described in insurance industry terminology):

- (1) Premises Operations Liability;
- (2) Blanket Contractual Liability;
- (3) Broad Form Property Damage;
- (4) Independent Contractor;

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- (5) Automobile Liability for owned, leased, hired or non-owned, if there will be any use of vehicles on the Premises by or on behalf of the Lessee;
- (6) Products and/or Completed Operations;
- (7) Personal Injury, Coverages A, B, and C (Exclusion "C" to be removed).

C. Contractor's Insurance and Bond: The Lessee shall require each contractor used by the Lessee to perform any demolition or construction work in connection with any improvement, alteration, or addition to be made to the Premises, to secure and maintain, at no cost to the City, the following:

(1) A contract bond or performance bond payable to the Lessee and the City in the full and just sum of the total amount of the contract, conditioned that all the provisions of the contract shall be faithfully performed by the contractor, or the surety if so required, and indemnifying the Lessee and the City against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the carrying out of the work of the contract, and conditioned as required by law for the payment of all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply such person or persons or subcontractors with provisions or supplies for the carrying on of such work.

(2) A policy of primary comprehensive general liability and automobile liability insurance with \$1,000,000 Combined Single Limits per occurrence and annual aggregate, providing the following coverages:

- Premises/Operations Liability (N & C);
- Owners and Contractors Protective Liability;
- Products and Completed Operations Liability;
- Blanket Contractual Liability;
- Broad Form Property Damage Liability;
- Personal Injury, including coverages A, B, and C;
- Stop Gap or Employers Contingent Liability;
- Explosion, collapse, underground damage (referred to as "X, C, U");
- Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles.

and under which insurance The City of Seattle shall be named an additional insured in the same manner as that specified in Subsection 4.B(2) (a), hereof.

D. Evidence of Insurance: A copy of such policy(ies) and all endorsements thereto or other evidence to the reasonable satisfaction of the Director of Administrative Services that the Lessee has secured and is maintaining insurance as required by this section shall be delivered to the Property Management Section at the address specified in Part A, hereof, on or before the effective date of this Lease, and shall be delivered thereafter within five (5) City business days after the Lessee's receipt of a written request therefor, for review by the City Attorney and the City's Risk Manager, and filing with the City Clerk. Such evidence shall be in the form of a certified copy of the policy with a certified endorsement naming the City as additional insured or an endorsement as a named additional insured, which endorsement must contain the policy number, expiration date and authorized signature of the insurance company representative, or an "ACORD" form of a Certificate of Insurance. In the event that the "ACORD" form of a Certificate of Insurance is submitted, it will be returned for correction if it does not comply with the following:

The wording at top of form: "This certificate is issued as a matter of information only and confers no rights upon the certificate holder." - Shall be deleted in its entirety.

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The wording at bottom of form: "Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company." - Shall be changed to read - "Should any of the above described policies be cancelled, reduced as to coverage, or otherwise changed before the expiration date thereof, the issuing company will provide written notice of such action to the below named certificate holder/City of Seattle at least thirty (30) days prior to the effective date of such change or cancellation."

E. Assumption of Risk: The placement and storage of personal property on said Premises shall be the responsibility, and at the sole risk, of the Lessee.

F. Adjustments of Claims: The Lessee shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of the Lessee under this Lease.

G. Termination upon Lessee's Failure to Comply with Requirements: Notwithstanding any provision herein to the contrary, the failure of the Lessee to comply with the provisions of this section shall subject this Lease to immediate termination without notice and without recourse by any person in order to protect the public interest.

5. USES AND CARE OF PREMISES

A. General Condition: The Premises shall at all times be kept in a neat, clean, safe and sanitary condition, and kept and used in accordance with the laws of the State of Washington and Charter and ordinances of The City of Seattle, and in accordance with all authorized rules and regulations of the Health Officer, Fire Marshal, Director of Construction and Land Use and other appropriate officers of The City of Seattle at the sole cost and expense of the Lessee. The Lessee shall not permit any waste, damage, or injury to the Premises; use or permit on said Premises anything that will increase the rate of fire insurance thereon beyond the rating classification; maintain anything on the Premises that may be dangerous to life or limb; overload the floors; permit any objectionable noise or odor to escape or to be emitted from said Premises; permit anything to be done upon said Premises that in any way will tend to create a nuisance or, in the event of multiple occupancy, to disturb any other tenants of the building; or to use or permit the use of said Premises for lodging or sleeping purposes.

B. Maintenance-Repairs: The Premises have been inspected by both parties and are accepted by Lessee in their existing condition as of the commencement date of this Lease, without reservation except for latent defects or faulty construction of the Premises not discoverable by inspection at the time of taking possession. All normal repairs to roof, walls and foundations, existing utility connections to and from the Premises and major electrical, plumbing, and heating systems necessary to maintain the Premises in a tenantable condition shall be done by or under the direction of the City and at the City's expense, except repair work necessitated by an act or omission of the Lessee, or any of the Lessee's officers, employees, agents or invitees, which repairs shall be made at the sole expense of the Lessee. All other maintenance and repairs to the Premises shall be the responsibility and at the sole expense of the Lessee; Provided, that such maintenance and repairs shall be subject to the prior written approval of and shall be undertaken at the direction of the City.

C. Alterations:

(1) The Lessee shall not make, or cause to be made, any alteration, addition or improvement in said Premises without first obtaining the written consent of the Director of Administrative Services for such work. All alterations, additions and improvements made shall be at the sole cost and expense of the Lessee, and shall become the property of the City, and unless otherwise agreed in writing by the Director of Administrative Services, shall remain in and be surrendered with the Premises as a part thereof at the expiration or termination of this Lease, without disturbance, molestation or injury.

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(2) The City reserves an unqualified right to make alterations to the Premises or to the building in which the Premises are situated (a) where conditions deemed by the Director of Administrative Services to constitute an emergency exist, or (b) in order to correct Code-deficiencies. The City also reserves the right to make general alterations to the Premises or to the building in which the Premises are situated where such general alterations will not unreasonably interfere with the ordinary operation of the Premises by the Lessee.

D. Access: The City reserves for itself, its officers, employees, agents and contractors, free access to said Premises at all reasonable times for the purposes of inspecting, cleaning, or making repairs, additions or alterations to the Premises or any other property owned by or under the control of City, but this right shall not be construed as an agreement on the part of the City to make said inspections, clean or make repairs, additions or alterations. The Lessee shall have reasonable access to other property of the City where necessary to provide utility services to or make repairs, alterations, additions, or improvements to the Premises; all of the Lessee's work on such other City property shall be at the Lessee's sole expense.

E. Signs: The Lessee shall not display, inscribe, paint or affix to any part of the Premises any sign except such as shall have been approved in writing by the Director of Administrative Services prior to such placement. The City shall have the right to place and maintain "For Rent" signs in conspicuous places on said Premises and to show the Premises to prospective tenants during the thirty (30) days prior to the expiration of this lease.

F. Keys: Any change in locks must be requested, in writing, by the Lessee and approved by the Director of Administrative Services prior to installation. Said lock change shall be at the sole expense of the Lessee. If a lock change is approved, Lessee shall provide the Director of Administrative Services with one (1) key for each lock changed immediately after such change has been completed.

G. Equipment; Personal Property: Special purpose equipment and all major appliances such as dishwashers, stoves, refrigerators, washers, and dryers located on the Premises shall be maintained and repaired by the Lessee at no cost to the City.

6. DAMAGE OR DESTRUCTION

In the event the Premises are damaged by fire, earthquake, act of war, or other extraordinary casualty, to such an extent as to render the same untenable in whole or in substantial part thereof, or are destroyed, it shall be optional with the City to repair or rebuild the same; and within forty-eight (48) hours after the happening of any such event, the Lessee shall give the City or City's agent notice thereof. If the City elects to repair or rebuild said Premises, the City shall prosecute the work of such repairing or rebuilding without unreasonable delay, in accordance with the then existing City procedures, and during such period the rent for said Premises shall be abated in the same ratio that the portion of the Premises rendered for the time being unfit for occupancy bears to the whole of the Premises; upon the completion of said rebuilding, the Lessee shall immediately reoccupy the Premises and pay the rent as aforesaid. In the event the building in which the Premises are located shall be substantially destroyed or damaged even though the Premises shall not be damaged thereby, if in the opinion of the Director of Administrative Services it shall not be practical to repair or rebuild, then the City may terminate this Lease by providing notice of termination to the Lessee within sixty (60) days after such damage or destruction has been determined to be irreparable.

Notwithstanding any other provision herein, no party to this Lease shall be liable in damages to any other party for termination of this Lease in the manner described in this section, because of the damage or destruction of the Premises or the building in which the Premises form a part.

7. COMPLIANCE WITH LAW

A. General Requirement: The Lessee, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of The City of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof.

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B. Licenses and Similar Authorizations: The Lessee, at no expense to the City, shall secure and maintain in full force and effect during the term of this Agreement, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

C. Taxes: The Lessee shall pay, before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Premises, including, but not limited to taxes arising out of the activity or business conducted on the Premises such as the rental or sale of goods or services; taxes levied on its property, equipment, and improvements on the Premises; and taxes on the Lessee's interest in this Agreement and any leasehold interest deemed to have been created thereby under Ch. 82.29A RCW. In the event the State of Washington makes any demand upon the City for payment of leasehold excise taxes resulting from the Lessee's occupation of the Premises or withholds funds due to the City to enforce collection of leasehold excise taxes, the Lessee shall, at its sole expense, contest such action and indemnify the City for all sums expended by, or withheld by the State from, the City in connection with such taxation.

D. Nondiscrimination and Affirmative Action.

(1) The Lessee agrees to and shall comply with all Federal, State and local laws and ordinances prohibiting discrimination with regard to race, color, national origin, ancestry, creed, religion, political ideology, sex, sexual orientation, marital status, or the presence of any sensory, mental or physical handicap.

(2) In the event the Lessee has three (3) or more employees, the following provision shall be deemed a part of this lease:

"During the performance of this Lease, the Lessee agrees as follows:

"The Lessee will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental, or physical handicap unless based upon a bona fide occupational qualification. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during the employment without regard to their creed, religion, race, color, sex, national origin or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause. The Lessee will take affirmative action to ensure that all of its employees, agents and subcontractors adhere to these provisions; Provided, nothing herein shall prevent an employer from giving preference in employment to members of his/her immediate family.

"The Lessee will, upon the request of the Director (as used herein, Director means the Director of the City's Human Rights Department, or his/her designee) furnish to the Director on such form as may be provided therefor, a report of the affirmative action taken by the Lessee in implementing the terms of this provision, and will permit access to the Lessee's records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director for the purpose of investigation to determine compliance with this provision.

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"If, upon investigation, the Director determines that there is a probable cause to believe that the Lessee has failed to comply with any of the terms of this provision, the Lessee shall be so notified in writing. The contracting authority shall give the Lessee an opportunity to be heard after ten (10) days' notice. If the contracting authority concurs in the findings of the Director, it may suspend or terminate this Lease and evict the Lessee in accordance with law.

"Failure to comply with any of the terms of this provision shall be a material breach of this Lease."

The foregoing provision will be inserted in all subleases entered into under this Lease.

(3) Women's and Minority Business Enterprise Utilization:

(a) Reference: The provisions of Seattle Municipal Code ("SMC") Chapter 20.46 (Women's and Minority Business Enterprise Utilization Ordinance), as amended, are hereby incorporated by reference and made a part hereof as if fully set forth herein.

(b) Compliance: During the term of this Agreement, the Lessee shall:

1. Continue to make every effort to utilize MBEs and WBEs;
2. Require every subcontractor utilized by the Lessee for work in fulfillment of the Lessee's obligations under this Lease, to make every effort to utilize WBEs and MBEs; and
3. Maintain records reasonably necessary for monitoring compliance with the provisions of SMC Chapter 20.46, as amended.

Any substitutions for or other failure to utilize the WBEs or MBEs projected for use in this Lease on the commitment forms must be approved in writing by the Seattle Human Rights Department and the Director of Administrative Services.

Inasmuch as the Seattle Human Rights Department is authorized and empowered by SMC Chapter 20.46 to monitor compliance with the Lessee's Women's and Minority enterprise utilization commitment during the term of this Lease, the Lessee shall furnish to such department within a reasonable time after a request has been made for the same, whatever reports or other information is reasonably necessary to determine compliance.

The failure of the Lessee to comply with applicable provisions of SMC Chapter 20.46 shall be a material breach of contract.

8. RENT CALCULATION AND PAYMENT PROCEDURE

A. Lessee shall pay a portion of the annual rent in legal tender of the United States of America, which portion shall in the first year equal twenty percent (20%) of the sum of (a) two and one-half percent (2.5%) of the cost of one position of "Real Property Agent" or its successor, as computed in Part B, Subsection 8.B., hereof, plus (b) two and one-half percent (2.5%) of the then-current fair market improvements value of the property of which the Premises form a part (as specified in Part A, hereof, and as adjusted in accordance with Part B, Subsection 8.C., hereof); 40% of said sum in the second; and 50% in the third and subsequent years.

B. "Costs of a Real Property Agent's position": The cost of a Real Property Agent's position shall be computed by multiplying the sum of 1,573 chargeable hours by the then-prevailing hourly rate for such position or its successor, as published in the Department of Administrative Services' annual Rate & Services Directory or its successor; Provided, that the City reserves the right to modify, annually or more frequently, such rate or the number of chargeable hours as deemed appropriate by the Director of Administrative

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Services; Provided, further, that under no circumstances shall the Lessee be charged a higher rate than that established for City departments that desire to obtain property management services from the Department of Administrative Services or its successor.

C. "Fair Market Improvements Value": For the first year of the Lease term, the fair market improvements value of the property of which the Premises forms a part shall be the most recent City-appraised value of such property. For the second and following years of the Lease term, such value shall be adjusted upwards by multiplying the preceding year's value by the sum of 100% and the percentage increase (if any) in construction costs associated with the type of building of which the Premises forms a part, as indicated by the BOECKH Index for the preceding year; Provided, that in the event the aforementioned index is discontinued, the parties hereto shall select another, similar index that reflects increases in building maintenance and construction costs.

D. Time and Place of Payment: The annual minimum monetary rental calculated as described in Part A and Part B, Subsections 8B & C, hereof, shall be prorated and paid on a monthly basis, in advance, on or before the first day of every month, without separate invoice from the City. All such payments shall be delivered or mailed to the City Treasurer, c/o Property Management Section addressed as specified for notices, pursuant to Section 14, hereof. In-kind services in lieu of monetary rent shall be provided according to the schedule included in the annual supplements(s) comprising Part C, hereof.

E. Delinquent Rent: Monetary rent shall be delinquent if not paid on or by the date specified in Part B, Subsection 8D, hereof. Delinquent monetary rent shall bear interest at a rate of Fifteen Percent (15%) per annum from the date of delinquency until paid. Services to be provided in lieu of monetary rent shall be delinquent if not provided according to the schedule(s) included in the appropriate annual supplement comprising a portion in Part C, hereof.

9. TERMINATION

A. For Breach by Lessee: In the event that the Lessee defaults in the performance of any of the terms, provisions, covenants and conditions to be kept, observed and performed by the Lessee, and such default is not corrected within thirty (30) days after the receipt of notice thereof from the City, or such shorter period as may be reasonable under the circumstances; or if the Lessee shall abandon, desert, vacate or remove from the Premises; or if the Lessee shall file a petition in bankruptcy; or if the Lessee shall be adjudicated as bankrupt after the filing of an involuntary petition in bankruptcy; or if the Lessee shall take or receive the advantage or benefit of any insolvency; or if the Lessee shall enter into an agreement of composition with the Lessee's creditors; then, in such event, the City, at its option at any time thereafter, may terminate this Lease together with all of the estate, right, and title thereby granted to or vested in the Lessee, by giving notice of such election at least twenty (20) days prior to the effective date thereof, and as of such effective date, this Lease and all of the estate, right, title and interest thereby granted to or vested in the Lessee shall then cease and terminate, and the City may re-enter the Premises using such force as may be required. Notwithstanding such re-entry by the City and anything to the contrary in this Lease, the liability of the Lessee for the rent provided for herein for the balance of the term of this Lease shall not be extinguished. The Director of Administrative Services shall have the right to determine on the City's behalf the existence of any default in performance or other breach or violation of the terms and conditions hereof on the part of the Lessee.

B. For Breach by City: The City shall not be in breach of any obligation to perform under this Lease unless the City fails to perform such obligation within a reasonable time, which time shall not extend more than thirty (30) days after notice by the Lessee to the City specifying the particular obligation that the City has failed to perform; Provided, however, that if the nature of the City's obligation is such that more than thirty (30) days are reasonably required for performance, then the City shall not be in breach if the City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

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C. Upon Notice by Lessee: This Lease may be terminated by the Lessee, without cause, by providing notice of such termination to the City not less than sixty (60) days prior to the effective date thereof.

10. SURRENDER OF PREMISES

Upon the expiration or termination of this Lease, including any extensions thereof, whichever is earlier, the Lessee shall quit and surrender said Premises and all keys thereto, without notice and in as good condition as received at commencement of the term, except for changes due to ordinary wear and tear, damage or destruction by fire or other casualty or circumstances uncontrollable by the Lessee, and alterations, additions, and improvements made with the consent of the Director of Administrative Services. On or before the termination or expiration date, whichever is earlier, the Lessee shall remove all furniture, equipment, supplies and other materials owned and controlled by Lessee.

11. WAIVER OF DEFAULT

The City does not waive full compliance with the terms and conditions of this Lease by acceptance of rent. No waiver of default by either party of any of the terms, covenants and conditions hereof shall be construed or operate as a waiver of any subsequent default of any of the terms, covenants and conditions hereon.

12. AMENDMENTS

The parties hereto expressly reserve the right to amend this Lease, from time to time, as may be necessary; Provided, that no alteration or modification of the terms or conditions hereof shall be valid and binding unless made in writing and signed by an authorized representative of each of the parties hereto.

13. NOTICES

All notices to be given by either of the parties hereto to the other party, shall be in writing and may either be delivered personally or may be deposited in the United States Mail, postage prepaid, addressed as specified in Part A hereof, or to such other respective address as the receiving party shall have designated in writing. Notices sent by mail shall be deemed to have been given when properly mailed; the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

14. NO RELATIONSHIP

In no event shall the City be construed or held to have become in any way or for any purpose a partner, associate, or joint venturer of the Lessee or any party associated with the Lessee in the conduct of the Lessee's business or otherwise. This Lease does not constitute the Lessee the agent or legal representative of the City for any purposes whatsoever.

15. DIRECTOR OF ADMINISTRATIVE SERVICES

The term "Director of Administrative Services" as used throughout this Agreement in regard to permission, warrant, consent, approval, rights, interpretation, and discretionary matters shall mean the Director of Administrative Services or his designee; Provided, that the action of the Director of Administrative Services pursuant to or in implementation of this Lease does not constitute any official action by any other City Department or official that may be required by law, ordinance, rule or regulation before the Lessee may rightfully commence, suspend, enlarge, or terminate any particular undertaking or may obtain or exercise any particular right or privilege under this Lease. Decisions to be made by the Director of Administrative Services shall be left to his/her reasonable discretion. Any approval, consent, or permission of the Director of Administrative Services required by this Lease shall not be unreasonably withheld.

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16. ADJUDICATION

This Lease shall be construed under all of the applicable laws, statutes, ordinances, rules and regulations of the United States, the State of Washington, and The City of Seattle. In the case of a dispute between the parties, jurisdiction over such dispute shall be with the Superior Court of King County, Washington.

17. BINDING EFFECT

This Lease shall be binding upon the heirs, successors, assigns and all other parties legally empowered with signatory rights of any or all of the parties hereto.

18. INVALIDITY OF PROVISIONS

Should any term, provision, condition or other portion of this Lease be held to be inoperative, invalid or void, the same shall not affect any other term, provision, condition or other portion of this Lease, and the remainder of this Lease shall be effective as if such term, provision, condition or portion had not been contained herein.

MOB Leases #4 (M.L.5.4-.13)
06-02-88

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MOB Leasing
University Child Development School
7/1/87 - 6/30/89

MUTUAL AND OFFSETTING BENEFIT LEASE AGREEMENT - PART C

SCOPE OF SERVICES

The University Child Development School shall provide the following services to the City as Mutual and Offsetting in lieu of payment of full market rate rent for the City-owned facility under this Agreement.

Services

1. Scholarships - The University Child Development School provides scholarships to a number of children from lower income families who could otherwise not afford to attend. Children enrolled range from ages three through nine.
2. Counseling, Referral and Testing - Such services are provided for parents and children to help parents determine the appropriate educational environment for gifted children.
3. Public Education - School staff provide public education seminars on gifted children, their educational and developmental needs to parents and the community.
4. Building repairs and physical improvements to the City-owned facility other than maintenance and repairs which the University Child Development School is obligated to perform pursuant to Part B, 5B of the Mutual and Offsetting Benefit Lease Agreement.

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a:mob.irs

MOB Lease
University Child Development School
7/1/87 - 6/30/89

MUTUAL AND OFFSETTING BENEFIT LEASE AGREEMENT - PART C

1987-1989 PROGRAM STANDARDS

<u>PERFORMANCE STANDARD</u>	<u>YEAR 1987-1988</u>	<u>YEAR 1989</u>
Number of Student Scholarships	2	7
Hours of Counseling and Referral	614	614
Number of Public Education Seminars	6	4
Repairs and Improvements	\$ 4066	

BUDGET

	<u>1987-1988</u>	<u>1989</u>
Scholarships @1,333.33	\$ 2,666	\$ 9,332
Counseling and Referral Hours @ 11.37	6,981	6,981
Public Education Seminars @ \$216.00	1,296	864
Repairs and Improvements		
Building Improvements	2,862	
Deck Construction	1,204	
TOTALS	\$15,009	\$17,177

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MOB Lease
University Child Development School
7/1/87 - 6/30/89

MUTUAL AND OFFSETTING BENEFIT LEASE AGREEMENT - PART C
REPORTING REQUIREMENTS

1. The Agency will submit the Quarterly Activity Reports (Attachment 1) to the City of Seattle Department of Human Resources.

Quarterly reports are due within 30 days of the close of each quarter and will contain data showing performance for the quarter and cumulative performance for the lease year.

The value of repair and construction work will be reported in summary form, with itemized costs approved by the Department of Administrative Services.

2. Quarterly Activity Reports will be submitted to the City of Seattle, Department of Human Resources, Alaska Building, 618 Second Avenue, Seattle, Washington 98104, to the attention of Bob Liston. Two copies of the report are required.
3. Failure to submit Quarterly Activity Reports may be grounds for eviction.

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1987-1989 QUARTERLY ACTIVITY REPORT

Subcontractor: University Child Development SchoolProgram Name: Mutual and Offsetting Benefit Lease Contract Period 7/1/87 - 6/30/89Person Completing Form: _____ Phone No. 547-5059Program Address: 3500 Interlake Avenue North Zip: 98103

Reporting Interval: From _____ To _____

PROGRAM ACTIVITY ITEMS	Performance for Current Reporting Interval			Cumulative Thru End of Previous Quarter	Performance for Annual Reporting Period		
	Actual Performance	Planned Performance	% of Planned Performance		Actual To Date	Total Planned	% of Total Planned
Number of Student Scholarships							
Number of Counseling and Referral Hours							
Number of Public Education Seminars							

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City of Seattle

Executive Department-Office of Management and Budget

James P. Ritch, Director
Charles Royer, Mayor

July 14, 1988



The Honorable Douglas Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Administrative Services

SUBJECT: An Ordinance relating to the Department of Administrative Services; authorizing the execution of a Mutual and Offsetting Benefit (MOB) Lease Agreement with the University Child Development School.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Bruce Petersen.

Sincerely,

Charles Royer
Mayor

by

JAMES P. RITCH
Budget Director

JR/bp/ff

Enclosure

cc: Director, DAS

10,055

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Chy
B.H.

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**Your
Seattle**
Department of Administrative Services

George Pernsteiner, Director
Charles Royer, Mayor

RECEIVED
JUL 13 1988



COPY RECEIVED JUL 13 1988

July 1, 1988

JUL 20 1988

Douglas N. Jewett
CITY ATTORNEY

City Council
City of Seattle

800004

VIA: Jim Ritch, Budget Director

Honorable Councilmembers:

SUBJECT: Legislation Authorizing Seven Mutual and Offsetting
Benefit (MOB) Lease Agreements

The attached legislation would authorize execution of MOB Lease Agreements with seven MOB agencies for five-year periods. These lease agreements have been prepared in accordance with the revised MOB Rules, which revisions were authorized by Council Resolution 27712 in May, 1988. Under the revised MOB Rules, the maximum cash rent paid by the MOB agencies is 50% of the City's administrative and maintenance expenses. The difference between the fair market rent and cash rent is provided in the form of services.

Five of the attached ordinances would authorize 5-year lease renewals for existing MOB agencies, described below:

- o Central Area Citizens Committee, Inc., an MOB tenant at 722 Eighteenth Avenue since 1977, operates the Central Area Motivation Program (CAMP), providing employment, education, counseling services, food distribution and community services. Under this lease renewal, their annual cash rent in 1988 would be \$4,254.50 and services rent would be \$28,145.50.
- o Pioneer Human Services has been an MOB tenant at 1110 Eighteenth Avenue East since 1982. For five years they operated a youth group home at the facility but terminated that program in 1987. After meetings with neighborhood residents, the City approved an alcohol and drug-free transitional housing program, which was opened in July, 1987. In 1988, the cash rent would be \$2,212.00 and services rent would be \$9,353.00.
- o South Park Area Redevelopment Committee, Inc. (SPARC), an MOB tenant at 8201 Tenth Avenue South since 1973, uses the facility to provide senior citizen, nutritional and educational programs, social service referrals, employment counseling and a community resource center. Their 1988 cash rent would be \$3,337.00 and services rent would be \$15,863.00.

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City Council
Authorizing Seven MOB Lease Agreements
July 1, 1988
Page 2

- o Senior Services of Seattle/King County has operated the Central Area Senior Center as an MOB tenant since 1979, providing activities, lunches and various other community services to the senior citizens in the area. The rental rates for 1988 would be \$7,040.00 in cash and \$60,460.50 in services.
- o First AME Child Development Program, an MOB tenant at 172 - 20th Avenue since 1982, provides preschool, educational and social enrichment programs for children of low income families. Their 1988 cash rent would be \$3,125.00 and services rent would be \$19,571.00.

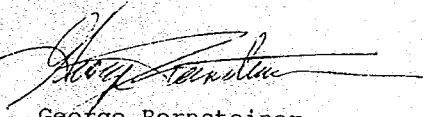
In addition there are two ordinances which would authorize 5-year leases for the following two new MOB agencies:

- o Children's Society of Washington would operate a foster home for four teenage mothers and their children at 339 - 22nd Avenue, commencing approximately August 15, 1988. Cash rent for the first year of the lease would be \$669.52 and services rent would be \$9,830.48.
- o University Child Development School (UCDS) has provided preschool and primary curriculum programs at 3500 Interlake North since July, 1986. During UCDS' initial period of occupancy, the City accepted improvements to the property in lieu of market rent. In 1988, cash rent would be \$1,039.00 and services rent would be \$14,213.00.

It is this department's recommendation that the attached legislation and subject lease agreements are in acceptable form and we respectfully request that they be approved at the earliest opportunity.

If you have any questions regarding these MOB lease agreements, please contact Mary Winge of our Property Management staff at 684-0407.

Sincerely,


George Pernsteiner
Director

GP:mw:clr

Attachments

cc: Tennessee Browne
Tracy Bottemiller

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MOB LEASE LEGISLATION

1. Objective. The purpose of the legislation is to authorize renewal of 5 MOB leases:

- Central Area Citizens Committee, Inc. (CAMP)
- Pioneer Human Services
- South Park Area Redevelopment Committee, Inc. (SPARC)
- First AM: Child Development Program
- Central Area Senior Center

and to authorize new MOB leases for:

- Children's Society of Washington
- University Child Development School

2. Amount Requested. No additional funds are requested.
3. Fund Source. Funds to cover the City's unreimbursed administrative and maintenance expenses for these properties are included in each annual budget.
4. Ongoing Commitment. An annual budget appropriation for unreimbursed administrative and maintenance costs will be required. That annual amount will be approximately \$45,000 (in 1988 dollars) unless new MOB properties are added.
5. New Positions. This proposal includes no new positions.
6. Required Facilities. Approval of these leases will continue a City commitment for use of these facilities by non-profit agencies to provide community services.
7. Criteria for Evaluation. N/A
8. Alternatives. The alternative of not approving the MOB leases and accepting of services is offset to market rent could be loss of the services which these agencies provide to the low-income residents of Seattle.

ref: GP.MW.CLR

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ROUTING SLIP FOR REQUEST FOR LEGISLATIVE ACTION

Originating Department: DAS - Facility Services Division

Council Sponsor: _____

Date: June 21, 1988

Subject: AN ORDINANCE relating to the Department of Administrative Services;

authorizing the execution of a Mutual and Offsetting Benefit (MOB) Lease Agreement

with the University Child Development School.

Date
Received

Date
Forwarded

OMB: _____

Law: _____

City Clerk: _____

Legislation should be routed in the order listed.

ORD.RT
E Disk

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TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Salvador Sibongo

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

PRESIDENT'S SIGNATURE

CS 70 28

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STATE OF WASHINGTON - KING COUNTY

20414
City of Seattle

—SS.

No.

City of Seattle

ORDINANCE ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on October 9, 1989, and published here by title only, will be mailed, at no cost, upon request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8354.

ORDINANCE 114746

Authorizing negotiation for and execution of a lease agreement for warehouse space to accommodate Department of Administrative Services staff and operations.

ORDINANCE 114747

Relating to the Department of Parks and Recreation and making an appropriation from the Park Renovation and Improvement Fund for the construction of renovation improvements and shoreline restoration at Stan Sayres Park.

ORDINANCE 114748

Relating to the City's drug abatement program, establishing an additional position and abrogating another position in the Police Department, authorizing other expenditures and increasing a certain expenditure allowance in the 1989 Budget of said Department to accelerate abatements by reimbursable appropriation from the General Fund.

ORDINANCE 114749

Relating to the Department of Parks and Recreation, authorizing an inter-local agreement with the Municipality of Metropolitan Seattle, "METRO" for the mutual development of a traveling marine science education program, (purchase of a truck) and the acceptance of said vehicle by the City at the completion of the two year program.

ORDINANCE 114750

Relating to the Department of Parks and Recreation, authorizing the Superintendent to accept a donation from the Seattle Aquarium Society; increasing expenditure allowances in the Department's 1989 Budget; and making an appropriation from the Park and Recreation Fund therefor.

ORDINANCE 114751

Relating to the Department of Administrative Services; authorizing the execution of a Mutual and Offsetting Benefit (MOB) Lease Agreement with the University Child Development School.

ORDINANCE 114752

Relating to the Department of Administrative Services; authorizing the execution of a Mutual and Offsetting Benefit (MOB) Lease Agreement with First AME Child Development Center.

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, October 18, 1989. (20414)

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD/TITLE ONLY 11476-114752

was published on
10/18/89

The amount of the fee charged for the foregoing publication is the sum of \$, which amount has been paid in full.

Bethany Morris

Subscribed and sworn to before me on

OCT 18 1989

[Signature]

Notary Public for the State of Washington,
residing in Seattle

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Affidavit of Publication